

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JOHN DILLARD, et al.,

Plaintiffs,

v.

TOWN OF ARITON,

Defendant.

CASE NO. 2:87-CV-1153

MOTION TO DISMISS

The Town of Ariton, defendant in this action, by and through the undersigned liaison counsel, moves to dismiss this action in its entirety for the following reasons:

1. In a Consent Decree and Order entered on May 17, 1988, that has applied to this day, this Court directed, among other things, that the Town Council “consist of 5 members elected at-large, without designated or numbered places, and with the 5 candidates receiving the most votes being elected and each voter casting only one vote.”

2. In Act No. 2006-252, the Alabama Legislature provided a state-law basis for the remedial order entered in this case. The Legislature further provided that the size of the Town Council, its method of election, or both, can be changed by general or local law in the future. Act No. 2006-252 was precleared on July 19, 2006, and is therefore effective.

3. In the past, federal court orders, some entered by consent and some entered without the consent of the defendants, changing the size of the local governing body, its method of election, or both, have been challenged on the ground that they may have exceeded the court’s remedial powers, conflicted with state law or both. With respect to the Town of Ariton, Act No. 2006-252 moots any such contention.

4. The dismissal of this case will leave the limited voting scheme in place.
5. The Dillard Plaintiffs have no objection to the dismissal of this action and do not claim an attorneys' fee from this defendant.
6. A proposed Consent Final Judgment is attached to this Motion as Exhibit 1, and, pursuant to Order No. 689 (Aug. 21, 2006) in *Dillard v. Crenshaw County*, an electronic copy will be transmitted to the court as an attachment to an e-mail message by liaison counsel once he receives notice that the Motion has been filed.

WHEREFORE this case should be dismissed.

Respectfully submitted,

s/ John J. Park, Jr.

John J. Park, Jr. Bar Number: PAR041

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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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and that a true and correct copy of the foregoing has been furnished by United States Mail to the following:

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